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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,486	03/10/2004	Matthew A. Smith	JK01261	3302

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EXAMINER

NGUYEN, PHONG H

ART UNIT PAPER NUMBER

3724

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,486

Applicant(s)

SMITH ET AL.

Examiner

Phong H. Nguyen

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 15, 16, 20, 30, 31, 35 and 37-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17-19, 22-29, 32-34 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05/17/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 1-14, 17-20, 22-29, 32-34, 36-42, 44, 45 and 47 in the reply filed on 06/07/2006 is acknowledged. The traversal is on the ground(s) that there is no burden to search all the claimed species. This is not found persuasive because searching extra species creates a serious burden on the Examiner.

Regarding Applicant's election of claims 37-42, 44, 45 and 47, Applicant elected claims 1-36 without traverse for prosecution in the reply filed on 12/15/2005 to the Office action date 11/21/2005. Therefore, claims 37-42, 44, 45 and 47 are withdrawn from consideration.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

2. Claim 22 is objected to because of the following informalities: "claim 22" should be likely --claim 21--. Appropriate correction is required. Applicant is further required to correct the numeric order of claims 23-50.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the indicator in claims

7, 14 and 29 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-14, 17-19, 23-29, 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gass et al. (US Pub. 2002/0017175 A1), hereinafter Gass, in view of Ghosh et al. (5,436,613), hereinafter Ghosh.

Gass teaches a power tool comprising a working element for performing a task on a workpiece, a brake system 28 and a detecting system for detecting a portion of a user's body coming to close to the working element.

Ghosh teaches the use of an infrared detecting system. See col. 1, lines 24-33. Therefore, it would have been obvious to one skilled in the art to incorporate the infrared detecting system as taught by Ghosh to the Gass' power tool to protect tool operators.

It is to be noted that the light beam creates a visual indication of a detection zone.

6. Claims 22 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gass in view of Ghosh, as applied to claims 8 and 23 above, and further in view of Lange et al. (US Pub. 2003/0169956 A1), hereinafter Lange.

The modified power tool of Gass teaches the invention substantially as claimed except for the light source and the detector being configured as a fiber optic probe.

Lange teaches the common use of fiber optic. See paragraph [0004]. Therefore, it would have been obvious to one skilled in the art to configure the light source and the detector as a fiber optic probe to improve the quality of the light source and the detector.

Conclusion

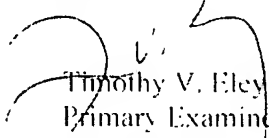
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chang et al. (6,779,760), Pilchowski (6,418,829), Suzuki et al. (6,376,939), Metzger (6,900,728) and Kozek (4,280,164) teach proximity devices of general interest.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Timothy V. Eley
Primary Examiner
Art Unit 3724

PN



July 12, 2006